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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,770	07/01/2003	James E. Brewer	A03P1047	4998
36802 PACESETTER	7590 05/07/200 , INC.	9	EXAMINER	
15900 VALLE	Y VIEW COURT	GEDEON, BRIAN T		
SYLMAR, CA	91392-9221		ART UNIT	PAPER NUMBER
			3766	
			MAIL DATE	DELIVERY MODE
			05/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/612,770	BREWER ET AL.		
Examiner	Art Unit		
Brian T. Gedeon	3766		

NOTICE OF APPEAL		Brian I. Gedeon	3/66	
 Lim The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, afficially, or other eventure, which places, which places of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a	The MAILING DATE of this communication appear	ars on the cover sheet with the c	correspondence add	ress
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expiresmonths from the mailing date of the final rejection. b) The period for reply expires on. (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If Do. 1 is checked, sheek either box (a) or (b). OVEX. ONE THE FINAL RELECTION. See IMPEP 766 07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee leave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee are been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee are been filed in the period of the final rejection, over if timely filed, any reduce any examed patent term adjustment. See 37 CFR 1.704(b). OTTICE OF APPEAL C) The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(e). In the proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise the issue of new matter (see NOTE below); (b) They raise the issue of how matter (see NOTE below); (c) They are not deemed to place the application in better	THE REPLY FILED <u>30 April 2009</u> FAILS TO PLACE THIS APPI	LICATION IN CONDITION FOR A	LLOWANCE.	
The period for reply expiresmonths from the mailing date of the final rejection. The period for reply expires on: (1) the mailing date of the final rejection, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note. If box 1 is developed the final rejection in the replace of the final rejection of the final rejection. Examiner Note. If box 1 is developed the final rejection in the final rejection in the final rejection in the final rejection. Examiner Note. If the final rejection is the final rejection of the final rejection of the final rejection of the final rejection of the final rejection in the final rejection of the fina	application, applicant must timely file one of the following r application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	eplies: (1) an amendment, affidavi al (with appeal fee) in compliance	t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request
Examiner Notic: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRNAL REJECTION. See MPEP FO80:7(f). Extensions of time may be obtained under 37 CFR 1.13(a). The date on which the petition under 37 CFR 1.13(a) and the appropriate extension fee may be obtained under 37 CFR 1.13(a) is calculated from: (1) the expiration date of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as et forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled, any reduce any earned patient term adjustment. See 37 CFR 1.704(b). OSTICE OF APPEAL I. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS Above the proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) they raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE:	 a) The period for reply expiresmonths from the mailing b) The period for reply expires on: (1) the mailing date of this Ac 	dvisory Action, or (2) the date set forth		
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(a)	AMENDMENTS			
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NOTE: (See 37 CFR 1.116 and 41.33(a)). The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). Applicant's reply has overcome the following rejection(s): Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). Newly proposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER The request for reconsideration has been considered but does NOT place the application in condition for allowance because: The newly proposed amendments raise new concerns that require further search and consideration.	appeal; and/or			ne issues for
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	12. Note the attached Information <i>Disclosure Statement</i> (s). (if 13. Other:	- 1 0/35/00) Paper No(s)		
/Carl H. Layno/ Supervisory Patent Examiner, Art Unit 3766	/Carl H. Layno/ Supervisory Patent Examiner, Art Unit 3766			



Application No.